

[NOT YET SCHEDULED FOR ORAL ARGUMENT]

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

IN RE SEALED CASE

No. 23-5044

**MOTION OF 22 PRESS ORGANIZATIONS
FOR LEAVE TO FILE BRIEF AS AMICI CURIAE**

Pursuant to Federal Rule of Appellate Procedure 29(a)(3) and Circuit Rule 29(b), and in response to this Court’s August 16, 2023 Order directing the parties to show cause why the “sealed merits briefs in this case . . . and the audio recording and transcript of the joint session of the oral argument should not be unsealed,” and directing the Government to show cause “why the ex parte appellee brief and the audio recording and transcript of the ex parte session of the oral argument should not be unsealed,” proposed amici curiae, 22 press organizations,¹

¹ The proposed amici are Advance Publications, Inc., American Broadcasting Companies, Inc. d/b/a ABC News, The Associated Press, Bloomberg L.P., Cable News Network, Inc., CBS Broadcasting, Inc. o/b/o CBS News, Dow Jones & Company, Inc., publisher of The Wall Street Journal, The E.W. Scripps Company, Fox News Network, LLC, USA TODAY, a publication operated by subsidiaries of Gannett Co., Inc., Gray Media Group, Inc., Los Angeles Times Communications LLC, publisher of The Los Angeles Times, National Cable Satellite Corporation d/b/a C-SPAN, NBCUniversal Media, LLC d/b/a NBC News, The New York Times Company, POLITICO LLC, Radio Television Digital News Association, Reuters News & Media Inc., TEGNA Inc., Telemundo Network Group LLC d/b/a Noticias Telemundo, Univision Networks & Studios, Inc., and WP Company LLC d/b/a The Washington Post.

respectfully seek leave to file the attached brief in support of neither party and in support of access to all of the briefs, argument transcripts, and argument audio recordings referenced in the August 16 Order (together, the “Sealed Records”).

The First Amendment and common law rights of access to court records are “a fundamental element of the rule of law, important to maintaining the integrity and legitimacy of an independent Judicial Branch.” *Metlife, Inc. v. Fin. Stability Oversight Council*, 865 F.3d 661, 663 (D.C. Cir. 2017) (Garland, J.). Nowhere is the maintenance of integrity and legitimacy more important than in a case like this one, involving the historic and closely-watched investigation of a former President. Amici thus seek to provide the Court with the unique perspective of news media organizations on the public’s right of access to judicial records and proceedings in general and the importance of access to these Sealed Records in particular.

Amici’s participation is especially important here because the parties have filed their responses to the Court’s August 16 Order entirely under seal. Amici therefore seek to ensure that the Court receives a clear and complete articulation of the public’s constitutional and common law rights of access to the records that remain under seal in this important case.

Undersigned counsel notified counsel for the Government and Twitter on August 29, 2023 that amici intended to file a brief in support of unsealing the Sealed Records. Counsel for Twitter responded that Twitter consents to the filing.

Counsel for the Government responded that “[t]he government takes no position on this request and defers to the Court.”

For the foregoing reasons, amici respectfully request that the Court grant them leave to file the attached brief.

Dated: September 6, 2023

Respectfully submitted,

/s/ Charles D. Tobin

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CERTIFICATE OF COMPLIANCE

This motion complies with the type-volume limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 505 words.

/s/ Charles D. Tobin

Charles D. Tobin

CERTIFICATE OF SERVICE

I hereby certify that on September 6, 2023, I directed the foregoing to be filed electronically with the Clerk of the Court by using the appellate CM/ECF system. I further certify that, pursuant to Circuit Rule 27(b), I caused four paper copies of the foregoing to be filed via FedEx to the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit.

/s/ Charles D. Tobin

Charles D. Tobin